

bank account. Funds deposited in a supervised bank account are to be recorded and accounted for on Form RD 402-2, "Statement of Deposits and Withdrawals".

[46 FR 36106, July 14, 1981, as amended at 53 FR 26588, July 14, 1988; 53 FR 35670, Sept. 14, 1988; 54 FR 39727, Sept. 28, 1989; 70 FR 59226, Oct. 12, 2005]

§ 1902.4 Establishing MFH reserve accounts in a supervised bank account.

(a) *General requirements.* All MFH borrowers required to maintain reserve accounts must place the reserve accounts in a supervised bank account(s) which meets the following requirements:

(1) *Countersignature requirements.* The reserve account must require that any funds withdrawn be countersigned by an authorized FmHA or its successor agency under Public Law 103-354 official.

(2) *Restrictions on collateral.* The financial institution holding the reserve account must ensure that the funds are not pledged or taken as security without the Agency's prior consent.

(3) *Interest bearing.* The reserve account funds are encouraged to be maintained in an interest-bearing account. The "Interest-Bearing Deposit Agreement" set out in Exhibit B of this subpart is not required to be used for reserve accounts.

(4) *Restricted investments.* Reserve funds must be placed in investments authorized in 7 CFR part 3560, subpart G. The authorized investments are deemed to be of acceptable risk such that the potential for any loss is minimal.

(5) *Financial institutions.* The reserve account must be maintained in authorized financial institutions set out in 7 CFR part 3560, subpart G; e.g., banks, savings associations, credit unions, brokerage firms, mutual funds. Generally, any financial institution may be used provided invested or deposited funds are insured to protect against theft and dishonesty. The reserve account funds need not be Federally insured, but must be otherwise covered by non-Federal insurance against theft and dishonesty.

(6) *Rules where multiple projects are involved.* A reserve account(s) must be

maintained for each borrower. When a borrower owns multiple projects, reserve accounts may be established for each project. A single reserve account may also be established by a borrower owning multiple projects, provided the conditions set out in 7 CFR part 3560, subpart G are met.

(7) *Term.* Reserve accounts are expected to be kept for the full term of the loan.

(b) *Deposits and account activity statements*—(1) *Deposits.* Generally, Rural Development will not require the review or approval of deposits or the use of Form RD 402-1 or 402-2.

(2) *Account activity statements.* Generally, the FmHA or its successor agency under Public Law 103-354 will not monitor or reconcile the reserve account activity statements issued periodically by the financial institutions holding the funds. FmHA or its successor agency under Public Law 103-354 will monitor reserve account levels through budget reports, audits, and Agency reserve tracking systems. If disputes arise or the borrower is in violation of Agency regulations, the Agency may require account activity statements. When account activity statements are sought, it will normally be sufficient to obtain the statement which reflects balances as of the last activity statement ending period. Form FmHA or its successor agency under Public Law 103-354 402-2 is not required to be used.

[59 FR 3778, Jan. 27, 1994, as amended at 69 FR 69104, Nov. 26, 2004; 70 FR 59226, Oct. 12, 2005; 70 FR 73347, Dec. 12, 2005]

§ 1902.5 [Reserved]

§ 1902.6 Establishing supervised bank accounts.

(a) Each borrower will be given an opportunity to choose the financial institution in which the supervised bank account will be established, provided the financial institution is a member of the FDIC or NCUA, as applicable.

(b) When accounts are established, it should be determined that:

(1) The financial institution is fully informed concerning the provisions of the applicable deposit agreement,

(2) Agreements are reached with respect to the services to be provided by

the financial institution including the frequency and method of transmittal of checking account statements, and

(3) An agreement is reached with the financial institution regarding the place where the counter-signature will be on the checks.

(c) When possible, Servicing Officials will make arrangements with financial institutions to waive service charges in connection with supervised bank accounts. However, there is no objection to the payment by the borrower of a reasonable charge for such service.

(d) For each borrower, if the amount of any loan and grant funds, plus any borrower contributions and funds from other sources to be deposited in the supervised bank account will exceed \$100,000, the financial institution will be required to pledge collateral for the excess over \$100,000 before the deposit is made (see § 1902.7 of this subpart). If the supervised bank account is a joint account, any amount over the FDIC- or NCUA-insured limit must be collateralized.

(e) Only one supervised bank account will be established for any borrower regardless of the amount or source of funds, except for *Rural Rental Housing* loans where separate accounts will be established for each project.

(f) When a supervised bank account is established, an original and two copies of the applicable Deposit Agreement and the Interest-Bearing Deposit Agreement (Exhibit B of this subpart), when applicable, will be executed by the borrower, the financial institution, and a Servicing Office employee. The original will be retained in the borrower's case file, one executed copy will be delivered to the financial institution and one executed copy to the borrower. An extra copy of the Interest-Bearing Deposit Agreement, when applicable, will be prepared and attached to the certificate, passbook, or other evidence of deposit representing the interest-bearing deposit.

[46 FR 36106, July 14, 1981, as amended at 53 FR 231, Jan. 6, 1988; 70 FR 59227, Oct. 12, 2005]

§ 1902.7 Pledging collateral for deposit of funds in supervised bank accounts.

(a) Funds in excess of \$100,000 per financial institution, deposited for bor-

rowers in supervised bank accounts, must be secured by pledging acceptable collateral with the Federal Reserve Bank (FRB) in an amount not less than the excess. If the supervised bank account is a joint account, any amount over the FDIC- or NCUA-insured limit must be collateralized.

(b) As soon as it is determined that the loan will be approved and the applicant has selected or tentatively selected a financial institution for the supervised bank account, the Servicing Official will contact the financial institution to determine:

(1) That the financial institution selected is insured by the FDIC (banks and savings associations) or NCUA (credit unions).

(2) Whether the financial institution is willing to pledge collateral with the FRB under 31 CFR part 202 (Treasury Circular 176) to the extent necessary to secure the amount of funds being deposited in excess of the FDIC or NCUA insurance limit.

(3) If the financial institution is not a member of the Federal Reserve System, it will be necessary for the financial institution to pledge the securities with a correspondent bank who is a member of the System. The correspondent bank should contact the FRB informing them they are holding securities pledged for the supervised bank account under 31 CFR part 202 (Treasury Circular 176).

(c) If the financial institution agrees to pledge collateral, the Servicing Official should complete RD Form Letter 1902-A-2, "Designated Financial Institution—Collateral Pledge", in an original and two copies: The original for the National Office, Policy and Analysis Division; the first copy for the State Office; and the second copy for the Servicing Official. The Rural Development Form Letter 1902-A-2 should be forwarded to the National Office, Policy and Analysis Division, at least 30 days before the date of loan closing.

(d) The National Office, Policy and Analysis Division, will arrange for the financial institution under its designation as a depository and financial agent of the U.S. Government to pledge the requested collateral.

(e) If, two days before loan closing, the local Rural Development office